

OFFICIAL GAZETTE



GOVERNMENT OF GOA

Note:- There is one Extraordinary issue to the Official Gazette Series I No. 37 dated 14-12-2001 from pages 911 to 912 regarding Notification from Department of Finance (Revenue & Expenditure Division).

GOVERNMENT OF GOA

Department of Food & Civil Supplies

Directorate of Civil Supplies & Price Control

Order

DCS/KER/REV/2001/1987

Read:- Government Order No. DCS/KER/REV/2001/90 dated 10-04-2001.

In exercise of the powers conferred by Section 3 of the Essential Commodities Act, 1955 (Central Act 10 of 1955), read with Notification of the Government of India in the Ministry of Commerce No. S. O. 1844, dated 18th June, 1966, the Government of Goa hereby makes the following Order so as to amend the Goa, Daman & Diu Kerosene Oil (Export and Price) Control Order, 1975 as follows:—

1. *Short title and commencement.*— (1) This Order may be called the Goa Kerosene Oil (Export and Price) Control (Amendment) Order, 2001.

(2) It shall come into force with effect from the date of issue of this Order.

2. *Amendment of Clause 6.*— In Clause 6 of the Goa, Daman & Diu Kerosene Oil (Export and Price) Control Order, 1975 (hereinafter called the "Principal Order", in Sub-Clause (4) (b), for items (A) and (B) the following shall be substituted for items (iii) and (iv), namely:—

"(A) For Issue of Licence

(iii) Retailer ... Rs. 300/-

(iv) Hawker ... Rs. 125/-

(B) For Renewal of Licence or issue of duplicate Licence

(iii) Retailer ... Rs. 300/-

(iv) Hawker ... Rs. 125/-

3. *Amendment of Clause 9.*— In Clause 9 of the Principal Order, in Sub-Clause (i) for items (iv) and (v) under "class of dealer", the following shall be substituted for items (iv) and (v), namely:—

(iv) Retailer ... Rs. 2000/-

(v) Hawker ... Rs. 500/-

By order and in the name of the Governor of Goa.

N. B. Narvekar, Director of Civil Supplies and Price Control and Ex officio Joint Secretary.

Panaji, 21st November, 2001.

Department of Law & Judiciary

Legal Affairs Division

Notification

10/4/99-LA(Vol.III)/PF/9

The Narcotic Drugs and Psychotropic Substances (Amendment) Act, 2001 (Central Act 9 of 2001) which has been passed by the Parliament and assented to by the President of India on 9-5-2001 and published in the Gazette of India, Extraordinary, Part II, Section 1 dated

9-5-2001 is hereby published for the general information of the public.

S. G. Marathe, Under Secretary (Drafting).

Panaji, 26th November, 2001.

THE NARCOTIC DRUGS AND PSYCHOTROPIC
SUBSTANCES (AMENDMENT) ACT, 2001

AN

ACT

further to amend the Narcotic Drugs Psychotropic Substances Act, 1985.

BE it enacted by Parliament in Fifty-second Year of the Republic of India as follows:—

1. *Short title and commencement.*— (1) This Act may be called the Narcotic Drugs and Psychotropic Substances (Amendment) Act, 2001.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint; and different dates may be appointed for different provisions of this Act, and any reference in any provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

2. *Amendment of section 1.*— In the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter referred to as the principal Act), in section 1, in sub-section (2), after the words "whole of India", the following shall be inserted, namely:—

61 of 1985.

"and it applies also—

- (a) to all citizens of India outside India;
- (b) to all persons on ships and aircrafts registered in India, wherever they may be".

3. *Amendment of section 2.*— In section 2 of the principal Act,—

(a) for clause (i), the following clause shall be substituted, namely:—

'(i) "addict" means a person who has dependence on any narcotic drug or psychotropic substance;'

(b) clause (viiia) shall be relettered as clause (viid) and before clause (viid) as so relettered, the following clauses shall be inserted, namely:—

'(viiia) "commercial quantity", in relation to narcotic drugs and psychotropic substances, means any quantity greater than the quantity specified by the Central Government by notification in the Official Gazette;

(viib) "controlled delivery" means the technique of allowing illicit or suspect consignments of narcotic drugs, psychotropic substances, controlled substances or substances substituted for them to pass out of, or through or into the territory of India with the knowledge and under the supervision of an officer empowered in this behalf or duly authorised under section 50A with a view to identifying the persons involved in the commission of an offence under this Act;

(viic) "corresponding law" means any law corresponding to the provisions of this Act;'

(c) after clause (xxviii), the following clause shall be inserted, namely:—

'(xxiiia) "small quantity", relation to narcotic drugs and psychotropic substances, means any quantity lesser than the quantity specified by the Central Government by notification in the Official Gazette.'

4. *Amendment of section 7A.*— In section 7A of the principal Act, for sub-sections (2) and (3), the following sub-sections shall be substituted, namely:—

"(2) The fund shall be applied by the Central Government to meet the expenditure incurred in connection with the measures taken for—

(a) combating illicit traffic in narcotic drugs, psychotropic substances or controlled substances;

(b) controlling the abuse of narcotic drugs and psychotropic substances;

(c) identifying treating, rehabilitating addicts;

(d) preventing drug abuse;

(e) education public against drug abuse; and

(f) supplying drugs to addicts where such supply is a medical necessity.

(3) The Central Government may constitute a Governing Body as it think fit to advise that Government and to sanction money out of the said Fund subject to the limit notified by the Central Government in the Official Gazette."

5. *Insertion of new section 8A.*— After section 8 of the principal Act, the following section shall be inserted, namely:—

'8A. *Prohibition of certain activities relating to property derived from offence.*— No person shall—

(a) convert or transfer any property knowing that such property is derived from an offence committed under this Act or under any other corresponding law of any other country or from an act of participation in such offence, for the purpose of concealing or disguising the illicit origin of the property or to assist any person in the commission of an offence or to evade the legal consequences; or

(b) conceal or disguise the true nature, source, location, disposition of any property knowing that such property is derived from an offence committed under this Act or under any other corresponding law of any other country; or

(c) knowingly acquire, possess or use any property which was derived from an offence committed under this Act or under any other corresponding law of any other country.'

6. *Substitution of new sections for sections 15 to 18.*— For sections 15 to 18 of the principal Act, the following sections shall be substituted, namely:—

"15. *Punishment for contravention in relation to poppy straw.*—Whoever, in contravention of any provisions of this Act or any rule or order made or condition of a licence granted thereunder, produces, possesses, transports, imports inter-State, exports, inter-State, sells purchases, uses or omits to warehouse poppy straw or removes or does any act in respect of warehoused poppy straw shall be punishable,—

(a) where the contravention involves small quantity, with rigorous imprisonment for a term which may extend to six months, or with fine which may extend to ten thousand rupees, or with both;

(b) where the contravention involves quantity, lesser than commercial quantity but greater than small quantity, with rigorous imprisonment for a term which may extend to ten years, and with fine which may extend to one lakh rupees;

(c) where the contravention involves commercial quantity, with rigorous imprisonment for a term which shall not be less than ten years but which may extend to twenty years, and shall also be liable to fine which shall not be less than one lakh rupees, but which may extend to two lakh rupees:

Provided that the court may, for reasons to be recorded in the judgment, impose a fine exceeding two lakh rupees.

16. *Punishment for contravention in relation to coca plant and coca leaves.*— Whoever, in contravention of any provision of this Act or any rule or order made or condition of licence granted thereunder, cultivates any coca plant or gathers any portion of a coca plant or produces, possesses, sells, purchases, transports, imports inter-State, exports, inter-State or uses coca leaves shall be punishable with rigorous imprisonment for a term which may extend to ten years, and with fine which may extend to one lakh rupees.

17. *Punishment for contravention for in relation to prepared opium.*— Whoever, in contravention of any provision of this Act or any rule or order made or condition of licence granted thereunder, manufactures, possesses, sells, purchases, transports, imports inter-State, exports, inter-State or uses prepared opium shall be punishable,—

(a) where the contravention involves small quantity, with rigorous imprisonment for a term which may extend to six months, or with fine which may extend to ten thousand rupees, or with both; or

(b) where the contravention involves quantity lesser than commercial quantity but greater than small quantity, with rigorous imprisonment for a term which may extend to ten years, and with fine which may extend to one lakh rupees; or

(c) where the contravention involves commercial quantity, with rigorous imprison-

ment for a term which shall not be less than ten years but which may extend to twenty years, and shall also be liable to fine which shall not be less than one lakh rupees but which may extend to two lakh rupees:

Provided that the court may, for reasons to be recorded in the judgement, impose a fine exceeding two lakh rupees.

18. *Punishment for contravention in relation to opium poppy and opium.*— Whoever, in contravention of any provision of this Act or any rule or order made or condition of licence granted thereunder, cultivates the opium poppy or produces, manufactures, possesses, sells, purchases, transports, import inter-State, exports inter-State or uses opium shall be punishable,—

(a) where the contravention involves small quantity, with rigorous imprisonment for a term which may extend to six months, or with fine which may extend to ten thousand rupees, or with both;

(b) where the contravention involves commercial quantity, with rigorous imprisonment for a term which shall not be less than ten years but which may extend to twenty years, and shall also be liable to fine which shall not be less than one lakh rupees, which may extend to two lakh rupees:

Provided that the court may, for reasons to be recorded in the judgment, impose a fine exceeding two lakh rupees.

(c) in any other case, with rigorous imprisonment which may extend to ten years and with fine which may extend to one lakh rupees.”.

7. *Amendment of section 20.*— In section 20 of the principal Act, in clause (b), for sub-clauses (i) and (ii), the following sub-clauses shall be substituted, namely:—

“(i) where such contravention relates to clause (a) with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine which may extend to one lakh rupees; and

(ii) where such contravention relates to sub-clause (b),—

(A) and involves small quantity, with rigorous imprisonment for a term which may extend to six months, or with fine which may extend to ten thousand rupees, or with both;

(B) and involves quantity lesser than commercial quantity but greater than small quantity, with rigorous imprisonment for a term which may extend to ten years, and with fine which may extend to one lakh rupees;

(C) and involves commercial quantity, with rigorous imprisonment for a term which shall not be less than ten years but which may extend to twenty years and shall also be liable to fine which shall not be less than one lakh rupees but which may extend to two lakh rupees:

Provided that the court may, for reasons to be recorded in the judgement, impose a fine exceeding two lakh rupees.”.

8. *Substitution of new sections for sections 21 to 23.*— For sections 21 to 23 of the principal Act, the following sections shall be substituted, namely:—

“21. *Punishment for contravention in relation to manufactured drugs and preparations.*— Whoever, in contravention of any provision of this Act or any rule or order made or condition of licence granted thereunder, manufactures, possesses, sells, purchases, transports, imports inter-State, exports, inter-State or uses any manufactured drug or any preparation containing any manufactured drug shall be punishable,—

(a) where the contravention involves small quantity, with rigorous imprisonment for a term which may extend to six months, or with fine which may extend to ten thousand rupees, or with both;

(b) where the contravention involves quantity, lesser than commercial quantity but greater than small quantity, with rigorous imprisonment for a term which may extend to ten years, and with fine which may extend to one lakh rupees;

(c) where the contravention involves commercial quantity, with rigorous imprisonment for a term which shall not be less than ten years but which may extend to twenty years, and shall also be liable to fine which shall not be less than one lakh rupees, but which may extend to two lakh rupees:

Provided that the court may, for reasons to be recorded in the judgment, impose a fine exceeding two lakh rupees.

22. *Punishment for contravention in relation to psychotropic substances.*— Whoever, in contravention of any provision of this Act or any rule or order made or condition of licence granted thereunder, manufactures, possesses, sells, purchases, transports, imports inter-State, exports, inter-State, or uses any psychotropic substance shall be punishable,—

(a) where the contravention involves small quantity, with rigorous imprisonment for a term which may extend to six months, or with fine which may extend to ten thousand rupees, or with both;

(b) where the contravention involves quantity, lesser than commercial quantity but greater than small quantity, with rigorous imprisonment for a term which may extend to ten years, and with fine which may extend to one lakh rupees;

(c) where the contravention involves commercial quantity, with rigorous imprisonment for a term which shall not be less than ten years but which may extend to twenty years, and shall also be liable to fine which shall not be less than one lakh rupees, but which may extend to two lakh rupees:

Provided that the court may, for reasons to be recorded in the judgment, impose a fine exceeding two lakh rupees.

23. *Punishment for illegal import into India, export from India or transshipment of narcotic drugs and psychotropic substances.*— Whoever, in contravention of any provisions of this Act or any rule or order made or condition of licence or permit granted or certificate or authorisation issued thereunder, imports into India or exports, from India or transships any narcotic drug or psychotropic substance shall be punishable,—

(a) where the contravention involves small quantity, with rigorous imprisonment for a term which may extend to six months, or with fine which may extend to ten thousand rupees, or with both;

(b) where the contravention involves quantity, lesser than commercial quantity but greater than small quantity, with rigorous imprisonment for a term which may extend to ten years, and with fine which may extend to one lakh rupees;

(c) where the contravention involves commercial quantity, with rigorous imprisonment

for a term which shall not be less than ten years but which may extend to twenty years, and shall also be liable to fine which shall not be less than one lakh rupees, but which may extend to two lakh rupees:

Provided that the court may, for reasons to be recorded in the judgment, impose a fine exceeding two lakh rupees.”.

9. *Substitution of new section for section 25.*— For section 25 of the principal Act, the following section shall be substituted, namely:—

“25. *Punishment for allowing premises, etc., to be used for commission of an offence.*— Whoever, being the owner or occupier or having the control or use of any house, room, enclosure, space, place, animal or conveyance, knowingly permits it to be used for the commission by any other person of an offence punishable under any provision of this Act, shall be punishable with the punishment provided for that offence.”.

10. *Substitution of new section for section 27.*— For section 27 of the principal Act, the following section shall be substituted, namely:—

“27. *Punishment for consumption of any narcotic drug or psychotropic substance.*— Whoever consumes any narcotic drug or psychotropic substance shall be punishable,—

(a) where the narcotic drug or psychotropic substance consumed is cocaine, morphine, diacetyl-morphine or any other narcotic drug or any psychotropic substance as may be specified in this behalf by the Central Government by notification in the Official Gazette, with rigorous imprisonment for a term which may extend to one year, or with fine which may extend to twenty thousand rupees, or with both; and

(b) where the narcotic drug or psychotropic substance consumed is other than those specified in or under clause (a), with imprisonment for a term which may extend to six months, or with fine may extend to ten thousand rupees, or with both.”.

11. *Amendment of section 30.*— In section 30 of the principal Act, for the words, figures and brackets “section 15 to section 25 (both inclusive) and from the circumstances of the case”, the words, figures and letter “sections 19, 24 and 27A and for offences involving commer-

cial quantity of any narcotic drug or psychotropic substances and from the circumstances of the case shall be substituted.

12. *Substitution of new section for section 31.*— For section 31 of the principal Act, the following section shall be substituted, namely:—

"31. *Enhanced punishment for offences after previous conviction.*— (1) If any person who has been convicted of the commission of, or attempt to commit, or abetment of, or criminal conspiracy to commit, any of the offences punishable under this Act is subsequently convicted of the commission of, or attempt to commit, or abetment of, or criminal conspiracy to commit, an offence punishable under this Act with the same amount of punishment shall be punished for the second and every subsequent offence with rigorous imprisonment for a term which may extend to one-half of the maximum term of imprisonment, and also be liable to fine which shall extend to one-half of the maximum amount of fine.

(2) Where the person referred to in sub-section (1) is liable to be punished with a minimum term of imprisonment and to a minimum amount of fine, the minimum punishment for such person shall be one-half of the minimum term of imprisonment and one-half of the minimum amount of fine:

Provided that the court may, for reasons to be recorded in the judgment, impose a fine exceeding the fine for which a person is liable.

(3) Where any person is convicted by a competent court of criminal jurisdiction outside India under any corresponding law, such person, in respect of such conviction, shall be dealt with for the purposes of sub-sections (1) and (2) as if he had been convicted by a court in India."

13. *Amendment of section 31A.*— In section 31A of the principal Act,—

(a) in sub-section (1),—

(i) for the words, figures, brackets and letter "section 15 to section 25 (both inclusive) or section 27A", the words, figures and letter "section 19, section 24, section 27A and for offences involving commercial quantity of any narcotic drug or psychotropic substance" shall be substituted;

(ii) in sub-clause (a), in the Table, in column (2), against entry (viii), for the figures and word "1,500 grams", the words "lesser of the quantity between the quantities given against the respective narcotic drugs or psychotropic substances mentioned above forming part of the mixture" shall be substituted;

(b) in sub-section (2), for the words, figures, brackets and letter "section 15 to section 25 (both inclusive), section 27A, section 28 or section 29", the words, figures and letter "section 19, section 24 or section 27A and for offences involving commercial quantity of any narcotic drug or psychotropic substance" shall be substituted.

14. *Insertion of new section 32B.*— After section 32A of the principal Act, the following section shall be inserted, namely:—

"32B. *Factors to be taken into account for imposing higher than the minimum punishment.*— Where a minimum term of imprisonment or amount of fine is prescribed for any offence committed under this Act, the court may, addition to such factors as it may deem fit, take into account the following factors for imposing a punishment higher than the minimum term of imprisonment or amount of fine, namely:—

(a) the use or threat of use of violence or arms by the offender;

(b) the fact that the offender holds a public office and that he has taken advantage of that office in committing the offence;

(c) the fact that the minors are affected by the offence or the minors are used for the commission of an offence;

(d) the fact that the offence is committed in an educational institution or social service facility or in the immediate vicinity of such institution or faculty or in other place to which school children and students resort for educational, sports and social activities;

(e) the fact that the offender belongs to organised international or any other criminal group which is involved in the commission of the offence; and

(f) the fact that the offender is involved in other illegal activities facilitated by commission of the offence."

15. *Substitution of new section for section 36A.*— For section 36A of the principal Act, the following section shall be substituted, namely:—

'36A. Offences triable by Special Courts.— (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973,—

2 of 1974.

(a) all offences under this Act which are punishable with imprisonment for a term of more than three years shall be triable only by the Special Court constituted for the area in which the offence has been committed or where there are more Special Courts than one for such area, by such one of them as may be specified in this behalf by the Government;

(b) where a person accused of or suspected of the commission of an offence under this Act is forwarded to a Magistrate under sub-section (2) or sub-section (2A) of section 167 of the Code of Criminal Procedure, 1973, such Magistrate may authorise the detention of such person in such custody as he thinks fit for a period not exceeding fifteen days in the whole where such Magistrate is a Judicial Magistrate and seven days in the whole where such Magistrate is an Executive Magistrate:

2 of 1974.

Provided that in cases which are triable by the Special Court where such Magistrate considers—

(i) when such person is forwarded to him as aforesaid; or

(ii) upon or at any time before the expiry of the period of detention authorised by him, that the detention of such person is unnecessary, he shall order such person to be forwarded to the Special Court having jurisdiction;

(c) the Special Court may exercise, in relation to the person forwarded to it under clause (b), the same power which a Magistrate having jurisdiction to try a case may exercise under section 167 of the Code of Criminal Procedure, 1973, in relation to an accused

2 of 1974.

person in such case who has been forwarded to him under that section;

(d) a Special Court may, upon perusal of police report of the facts constituting an offence under this Act or upon complaint made by an officer of the Central Government or a State Government authorised in his behalf, take cognizance of that offence without the accused being committed to it for trial.

(2) When trying an offence under this Act, a Special Court may also try an offence other than an offence under this Act with which the accused may, under the Code of Criminal Procedure, 1973, be charged at the same trial.

2 of 1974.

(3) Nothing contained in this section shall be deemed to affect the special powers of the High Court regarding bail under section 439 of the Code of Criminal Procedure, 1973, and the High Court may exercise such powers including the power under clause (b) of sub-section (1) of that section as if the reference to "Magistrate" in that section included also a reference to a "Special Court" constituted under section 36.

2 of 1974.

(4) In respect of persons accused of an offence punishable under section 19 or section 24 or section 27A or for offences involving commercial quantity the references in sub-section (2) of section 167 of the Code of Criminal Procedure, 1973 thereof to "ninety days", where they occur, shall be construed as reference to "one hundred and eighty days":

2 of 1974.

Provided that, if it is not possible to complete the investigation within the said period of one hundred and eighty days, the Special Court may extend the said period up to one year on the report of the Public Prosecutor indicating the progress of the investigation and the specific reasons for the detention of the accused beyond the said period of one hundred and eighty days.

(5) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, the offences punishable under this Act with

2 of 1974.

imprisonment for a term of not more than three years may be tried summarily.'

16. *Substitution of new section for section 36D.*— For section 36D of the principal Act, the following section shall be substituted, namely:—

"36D. *Transitional provisions.*— (1) Any offence committed under this Act on or after the commencement of the Narcotic Drugs and Psychotropic Substances (Amendment) Act, 1988 which is triable by a Special Court shall, until a Special Court is constituted under section 36, notwithstanding anything contained in the Code of Criminal Procedure, 1973, be tried by a Court of Session.

2 of 1989.

2 of 1974.

(2) Where any proceedings in relation to any offence committed under this Act on or after the commencement of the Narcotic Drugs and Psychotropic Substances (Amendment) Act, 1988 are pending before a Court of Session, then, notwithstanding anything contained in sub-section (1), such proceeding shall be heard and disposed of by the Court of Session:

2 of 1989.

Provided that nothing contained in this sub-section shall affect the power of the High Court under section 407 of the Code of Criminal Procedure, 1973 to transfer any case or class of cases taken cognizance by a Court of Session under sub-section (1)."

2 of 1974.

17. *Amendment of section 37.*— In section 37 of the principal Act, in sub-section (1), in clause (b), for the words "a term of imprisonment of five years or more under this Act", the words, figures and letter "offences under section 19 or section 24 or section 27A and also for offences involving commercial quantity" shall be substituted.

18. *Amendment of section 39.*— In section 39 of the principal Act, in sub-section (1), after the words and figures "under section 27", the words "or for offences relating to small quantity of any narcotic drug or psychotropic substance" shall be inserted.

19. *Substitution of new sections for sections 41 to 43.*— For sections 41 to 43 of the principal

Act, the following sections shall be substituted, namely:—

'41. *Power to issue warrant and authorisation.*— (1) A Metropolitan Magistrate or a Magistrate of the first class or any Magistrate of the second class specially empowered by the State Government in this behalf, may issue a warrant for the arrest of any person whom he has reason to believe to have committed any offence punishable under this Act, or for the search, whether by day or by night, of any building, conveyance or place in which he has reason to believe any narcotic drug or psychotropic substance or controlled substance in respect of which an offence punishable under this Act has been committed or any document or other article which may furnish evidence of the commission of such offence or any illegally acquired property or any document or other article which may furnish evidence of holding any illegally acquired property which is liable for seizure or freezing or forfeiture under Chapter VA of this Act is kept or concealed.

(2) Any such officer of gazetted rank of the departments of central excise, narcotics, customs, revenue intelligence or any other department of the Central Government including the para-military forces or the armed forces as is empowered in this behalf by general or special order by the Central Government, or any such officer of the revenue, drugs control, excise, police or any other department of a State Government as is empowered in this behalf by general or special order of the State Government if he has reason to believe from personal knowledge or information given by any person and taken in writing that any person has committed an offence punishable under this Act or that any narcotic drug or psychotropic substance or controlled substance in respect of which any offence under this Act has been committed or any document or other article which may furnish evidence of the commission of such offence or any illegally acquired property or any document or other article which may furnish evidence of holding any illegally acquired property which is liable for seizure or freezing or forfeiture under Chapter VA of this is kept or concealed in any building, conveyance or place, may authorise any officer subordinate to him but superior in rank to a peon, sepoy or a constable to arrest such a person or search a building, conveyance or place whether by day or by night or himself

arrest such a person or search a building, conveyance or place.

(3) The officer to whom a warrant under sub-section (1) is addressed and the officer who authorised the arrest or search or the officer who is so authorised under sub-section (2) shall have all the powers of an officer acting under section 42.

42. *Power of entry, search, seizure and arrest without warrant or authorisation.*— (1) Any such officer (being an officer superior in rank to a peon, sepoy or constable) of the departments of central excise, narcotics, customs, revenue intelligence or any other department of the Central Government including paramilitary forces or armed forces as is empowered in this behalf by general or special order by the Central Government, or any such officer (being an officer superior in rank to a peon, sepoy or constable) of the revenue, drugs control, excise, police or any other department of a State Government as is empowered in this behalf by general or special order of the State Government, if he has reason to believe from personal knowledge or information given by any person and taken down in writing that any narcotic drug, or psychotropic substance, or controlled substance in respect of which an offence punishable under this Act has been committed or any document or other article which may furnish evidence of the commission of such offence or any illegally acquired property or any document or other article which may furnish evidence of holding any illegally acquired property which is liable for seizure or freezing or forfeiture under Chapter VA of this Act is kept or concealed in any building, conveyance or enclosed place, may between sunrise and sunset,—

(a) enter into and search any such building, conveyance or place;

(b) in case of resistance, break open any door and remove any obstacle to such entry;

(c) seize such drug or substance and all materials used in the manufacture thereof and any other article and any animal or conveyance which he has reason to believe to be liable to confiscation under this Act and any document or other article which he has reason to believe may furnish evidence of the commission of any offence punishable under this Act or furnish evidence of holding any illegally acquired property which is liable for seizure

or freezing or forfeiture under Chapter VA of this Act; and

(d) detain and search, and, if he thinks proper, arrest any person whom he has reason to believe to have committed any offence punishable under this Act:

Provided that if such officer has reason to believe that a search warrant or authorisation cannot be obtained without affording opportunity for the concealment of evidence or facility for the escape of an offender, he may enter and search such building, conveyance or enclosed place at any time between sunset and sunrise after recording the grounds of his belief.

(2) Where an officer takes down any information in writing under sub-section (1) or records grounds for his belief under the proviso thereto, he shall within seventy-two hours send a copy thereof to his immediate official superior.

43. *Power of seizure and arrest in public place.*— Any officer of any of the departments mentioned in section 42 may—

(a) seize in any public place or in transit, any narcotic drug or psychotropic substance or controlled substance in respect of which he has reason to believe an offence punishable under this Act has been committed, and, along with such drug or substance, any animal or conveyance or article liable to confiscation under this Act, any document or other article which he has reason to believe may furnish evidence of the commission of an offence punishable under this Act or any document or other article which may furnish evidence of holding any illegally acquired property which is liable for seizure or freezing or forfeiture under Chapter VA of this Act;

(b) detain and search any person whom he has reason to believe to have committed an offence punishable under this Act, and if such person has any narcotic drug or psychotropic substance or controlled substance in his possession and such possession appears to him to be unlawful, arrest him and any other person in his company.

Explanation.— For the purposes of this section, the expression "public place" includes any public conveyance, hotel, shop, or other place intended for use by, or accessible to, the public.

20. *Amendment of section 44.*— In section 44 of the principal Act, after the words "psychotropic substance", the words "or controlled substance" shall be inserted.

21. *Amendment of section 49.*— In section 49 of the principal Act, after the words "psychotropic substance", the words "or controlled substance" shall be inserted.

22. *Amendment of section 50.*— In section 50 of the principal Act, after sub-section (4), the following sub-sections shall be inserted, namely:—

"(5) When an officer duly authorised under section 42 has reason to believe that it is not possible to take the person to be searched to the nearest Gazetted Officer or Magistrate without the possibility of the person to be searched parting with possession of any narcotic drug or psychotropic substance, or controlled substance or article or document, he may, instead of taking such person to the nearest Gazetted Officer or Magistrate, proceed to search the person as provided under section 100 of the Code of Criminal Procedure, 1973.

2 of 1974.

(6) After a search is conducted under sub-section (5), the officer shall record the reasons for such belief which necessitated such search and within seventy-two hours send a copy thereof to his immediate official superior."

23. *Insertion of new section 50A.*— After section 50 of the principal Act, the following section shall be inserted, namely:—

"50A. *Power to undertake controlled delivery.*— The Director General of Narcotics Control Bureau constituted under sub-section (3) of section 4 or any other officer authorised by him in this behalf, may, notwithstanding anything contained in this Act, undertake controlled delivery of any consignment to—

(a) any destination in India;

(b) a foreign country, in consultation with the competent authority of such foreign country to which such consignment is destined, in such manner as may be prescribed."

24. *Amendment of section 53.*— In section 53 of the principal Act,—

(a) in sub-section (1), for the words "or Border Security Force", the words "or any other

department of the Central Government including para-military forces or armed forces" shall be substituted;

(b) in sub-section (2), after the word "excise", the words "or any other department" shall be inserted.

25. *Substitution of new section for section 54.*— For section 54 of the principal Act, the following section shall be substituted, namely:—

"54. *Presumption from possession of illicit articles.*—In trials under this Act, it may be presumed, unless and until the contrary is proved, that the accused has committed an offence under this Act in respect of—

(a) any narcotic drug or psychotropic substance or controlled substance;

(b) any opium poppy, cannabis plant or coca plant growing on any land which he has cultivated;

(c) any apparatus specially designed or any group of utensils specially adopted for the manufacture of any narcotic drug or psychotropic substance or controlled substance; or

(d) any materials which have undergone any process towards the manufacture of a narcotic drug or psychotropic substance or controlled substance, or any residue left of the materials from which any narcotic drug or psychotropic substance or controlled substance has been manufactured,

for the possession of which he fails to account satisfactorily."

26. *Amendment of section 60.*— In section 60 of the principal Act,—

(a) for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) Whenever any offence punishable under this Act has been committed, the narcotic drug, psychotropic substance, controlled substance, opium poppy, coca plant, cannabis plant, materials, apparatus and utensils in respect of which or by means of which such offence has been committed, shall be liable to confiscation.";

(b) in sub-sections (2) and (3), after the words "psychotropic substance", wherever they occur, the words "or controlled substances" shall be inserted.

27. *Amendment of section 61.*— In section 61 of the principal Act, for the words "narcotic drug or psychotropic substance", the words "narcotic drug, psychotropic substance or controlled substance" shall be substituted.

28. *Amendment of section 62.*— In section 62 of the principal Act, for the words "narcotic drug or psychotropic substance", the words "narcotic drug, psychotropic substance or controlled substance" shall be substituted.

29. *Amendment of section 63.*— In section 63 of the principal Act,—

(a) in sub-section (2), in the second proviso, after the words "psychotropic substance", the words "controlled substance" shall be inserted;

(b) sub-section (3) shall be omitted.

30. *Substitution of new section for section 64A.*— For section 64A of the principal Act, the following section shall be substituted, namely:—

"64A. *Immunity from prosecution to addicts volunteering for treatment.*— Any addict, who is charged with an offence punishable under section 27 or with offences involving small quantity of narcotic drugs or psychotropic substances, who voluntarily seeks to undergo medical treatment for de-addiction from a hospital or an institution maintained or recognised by the Government or a local authority and undergoes such treatment shall not be liable to prosecution under section 27 or under any other section for offences involving small quantity of narcotic drugs or psychotropic substances:

Provided that the said immunity from prosecution may be withdrawn if the addict does not undergo the complete treatment for de-addiction."

31. *Amendment of section 68A.*— In section 68A of the principal Act, in sub-section (2),—

(i) in clause (a), for the word "five", the word "ten" shall be substituted;

(ii) after clause (c), the following clause shall be inserted, namely:—

"(cc) every person who has been arrested or against whom a warrant or authorisation of arrest has been issued for the commission of an offence punishable under this Act with imprisonment for a term of ten years or more, and every person who has been arrested or against whom a warrant or authorisation of arrest has been issued for the commission of a similar offence under any corresponding law of any other country;"

(iii) in clauses (d), (e) and (f), after the word, brackets and letter "clause (c)", the words, brackets and letters "or clause (cc)" shall be inserted.

32. *Amendment of section 68B.*— In section 68B of the principal Act, in clause (g), in sub-clause (i), for the words "illicit traffic", the words "the contravention of any provisions of this Act" shall be substituted.

33. *Amendment of section 68C.*— In section 68C of the principal Act, in sub-section (2), for the proviso, the following proviso shall be substituted, namely:—

"Provided that no property shall be forfeited under this Chapter if such property was acquired, by a person to whom this Act applies, before a period of six years from the date he was arrested or against whom a warrant or authorisation of arrest has been issued for the commission of an offence punishable under this Act or from the date the order or detention was issued, as the case may be."

34. *Amendment of section 68E.*— In section 68E of the principal Act, in sub-section (1), the following sub-section shall be substituted, namely:—

"(1) Every officer empowered under section 53 and every officer-in-charge of a police station shall, on receipt of information is satisfied that any person to whom this Chapter applies holds any illegally acquired property, he may, after recording reasons for doing so, proceed to take all steps necessary for tracing and identifying such property."

35. *Amendment of section 68H.*— In section 68H of the principal Act, in sub-section (2), the following proviso shall be inserted at the end, namely:—

"Provided that no notice for forfeiture shall be served upon any person referred to in clause (cc) of sub-section (2) of section 68A or relative of a person referred to in that clause or associate of a person referred to in that clause or holder of any property which was at any time previously held by a person referred to in that clause."

36. *Amendment of section 68-I.*— In section 68-I of the principal Act, after sub-section (3), the following proviso shall be inserted at the end, namely:—

"Provided that no illegally acquired property of any person who is referred to in clause (cc) of sub-section (2) of section 68A or relative of a person referred to in that clause or associate of a person referred to in that clause or holder of any property which was at any time previously held by a person referred to in that clause shall stand forfeited."

37. *Amendment of section 68-O.*— In section 68-O of the principal Act, in sub-section (1), for the words "Any person aggrieved by an order of the competent authority", the words, brackets, figures and letter "Any officer referred to in sub-section (1) of section 68E or any person aggrieved by an order of the competent authority" shall be substituted.

38. *Insertion of new section 68Z.*— After section 68Y of the principal Act, the following section shall be inserted, namely:—

"68Z. *Release of property in certain cases.*—

(1) Where the detention order of a detenu is set aside or withdrawn, properties seized or frozen under this Chapter shall stand released.

(2) Where any person referred to in clause (a) or clause (b) or clause (cc) of sub-section (2) of section 68A has been acquitted or discharged from the charges under this Act or any other corresponding law of any other country and the acquittal was not appealed against or when appealed against, the appeal was disposed of as a consequence of which such property could not be forfeited or warrant of arrest or authorisation

of arrest issued against such person has been withdrawn, then, property seized or frozen under this Chapter shall stand released."

39. *Amendment of section 76.*— In section 76 of the principal Act, in sub-section (2), after clause (c), the following clause shall be inserted, namely:—

'(ca) the manner in which "controlled delivery" under section 50A is to be undertaken;'

40. *Amendment of section 77.*— In section 77 of the principal Act, for the portion beginning with the words "Every rule made under this Act" and ending with "shall be laid, as soon as may be, after it is made or issued", the following shall be substituted, namely:—

"Every rule made under this Act by the Central Government and every notification or order issued under clause (viiia), clause (xi), clause (xxiiia) of section 2, section 3, section 7A, section 9A and clause (a) of section 27 shall be laid, as soon as may be, after it is made or issued".

41. *Application of this Act to pending cases.*—
(1) Notwithstanding anything contained in sub-section (2) of section 1, all cases pending before the courts or under investigation at the commencement of this Act shall be disposed of in accordance with the provisions of the principal Act as amended by this Act and accordingly, any person found guilty of any offence punishable under the principal Act, as it stood immediately before such commencement, shall be liable for a punishment which is lesser than the punishment for which he is otherwise liable at the date of the commission of such offence:

Provided that nothing in this section shall apply to cases pending in appeal.

(2) For the removal of doubts, it is hereby declared that no act or omission on the part of any person shall be punishable as an offence which would not have been so punishable if this Act has not come into force.